

EXHIBIT “A”

FINE AND STAUD, LLC

BY: THEODORE C. LEVY, ESQUIRE

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BY: COLLEEN J. BORUM, ESQUIRE

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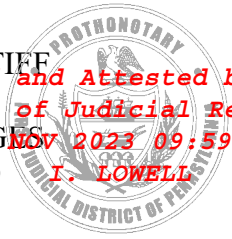
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ATTORNEYS FOR PLAINTIFF

ASSESSMENT OF DAMAGES

HEARING IS REQUESTED

Filed and Attested by the
Office of Judicial Records
ACB NOV 2023 09:59 am
I. LOWELL



TYLER ESSEX

206 East Warren Street

Dunmore, PA 18512

Plaintiff

v.

STARBUCKS COFFEE COMPANY

2401 Utah Avenue South, Suite 800

Seattle, WA 98134

&

STARBUCKS CORPORATION

2401 Utah Avenue South, Suite 800

Seattle, WA 98134

&

PETROGAS GROUP US, INC.

797 Old Country Road

Plainview, NY 11803

&

APPLEGREEN USA WELCOME

CENTRES, LLC

Princeton S. Corporate Center, Suite 160

100 Charles Ewing Blvd

Ewing, NJ 08628

&

JOHN DOE #1-10 (FICTITIOUS)

&

ABC CORPORATION #1-10 (FICTITIOUS)

Defendants

PHILADELPHIA COUNTY

COURT OF COMMON PLEAS

MAJOR JURY

OCTOBER TERM 2023

NO. 1045

JURY TRIAL DEMANDED

NOTICE TO PLEAD

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by

AVISO

Le hand demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de

entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you.

You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

PHILADELPHIA BAR ASSOCIATION
Lawyer Referral & Information Service
1101 Market Street, 11th Floor
Philadelphia, PA 19107
(215) 238-6333 TTY# (215) 451-6197

plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

ASOCIACION DE LICENCIADOS DE FILADELFIA
Servicio De Referencia E. Informacion
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JOHN DOE #1-10 (FICTITIOUS)

&

ABC CORPORATION #1-10 (FICTITIOUS)

Defendants

: PHILADELPHIA COUNTY
: COURT OF COMMON PLEAS: **MAJOR JURY**

: OCTOBER TERM 2023

: NO. 1045

: **JURY TRIAL DEMANDED****AMENDED COMPLAINT**

Plaintiff, Tyler Essex, by and through his attorneys, Fine and Staud, LLC, states that he has a cause of action against Defendants, Starbucks Coffee Company, Starbucks Corporation, Petrogas Group Us, Inc., Applegreen USA Welcome Centres, LLC, John Does #1-10 (fictitious), and ABC

Corporations #1-10 (fictitious), and in support thereof aver the following:

I. PARTIES

1. Plaintiff, Tyler Essex, is an adult individual residing at the above stated address.
2. Defendant, Starbucks Coffee Company, is a corporation or other business entity which regularly conducts business in Philadelphia County, Commonwealth of Pennsylvania, with offices at the above stated address.
3. At all times relevant hereto, Starbucks Coffee Company owned, controlled, possessed, managed, leased, and/or was otherwise responsible for the Starbucks Store located at the Hickory Run Service Plaza, 256 Danner Road, Jim Thorpe, PA 18229 including but not limited to the Starbucks store at the location and the coffee making that occurred at that specific Starbucks store.
4. Starbucks Coffee Company is vicariously liable for the negligent acts and/or omissions of its employees, servants, workmen, and/or agents who at all material times were acting or failing to act in the course and scope of their employment, authority, and/or agency.
5. Defendant, Starbucks Corporation, is a corporation or other business entity which regularly conducts business in Philadelphia County, Commonwealth of Pennsylvania, with offices at the above stated address.
6. At all times relevant hereto, Starbucks Corporation owned, controlled, possessed, managed, leased, and/or was otherwise responsible for the Starbucks Store located at the Hickory Run Service Plaza, 256 Danner Road, Jim Thorpe, PA 18229 including but not limited to the Starbucks store at the location and the coffee making that occurred at that specific Starbucks store.
7. Starbucks Corporation is vicariously liable for the negligent acts and/or omissions of its employees, servants, workmen, and/or agents who at all material times were acting or failing to act in the course and scope of their employment, authority, and/or agency.
8. Defendant, Petrogas Group Us, Inc., is a corporation or other business entity which

regularly conducts business in Philadelphia County, Commonwealth of Pennsylvania, with offices at the above stated address.

9. At all times relevant hereto, Petrogas Group Us, Inc. owned, controlled, possessed, managed, leased, and/or was otherwise responsible for the Starbucks Store located at the Hickory Run Service Plaza, 256 Danner Road, Jim Thorpe, PA 18229 including but not limited to the Starbucks store at the location and the coffee making that occurred at that specific Starbucks store.

10. Petrogas Group Us, Inc. is vicariously liable for the negligent acts and/or omissions of its employees, servants, workmen, and/or agents who at all material times were acting or failing to act in the course and scope of their employment, authority, and/or agency.

11. Defendant, Applegreen USA Welcome Centres, LLC, is a corporation or other business entity which regularly conducts business in Philadelphia County, Commonwealth of Pennsylvania, with offices at the above stated address.

12. At all times relevant hereto, Applegreen USA Welcome Centres, LLC owned, controlled, possessed, managed, leased, and/or was otherwise responsible for the Starbucks Store located at the Hickory Run Service Plaza, 256 Danner Road, Jim Thorpe, PA 18229 including but not limited to the Starbucks store at the location and the coffee making that occurred at that specific Starbucks store.

13. Applegreen USA Welcome Centres, LLC is vicariously liable for the negligent acts and/or omissions of its employees, servants, workmen, and/or agents who at all material times were acting or failing to act in the course and scope of their employment, authority, and/or agency.

14. John Does #1-10 (fictitious) are adult individuals who owned, controlled, possessed, managed, leased, and/or were otherwise responsible for the Starbucks Store located at the Hickory Run Service Plaza, 256 Danner Road, Jim Thorpe, PA 18229 including but not limited to the Starbucks store at the location and the coffee making that occurred at that specific Starbucks store.

15. John Does #1-10 (fictitious) are vicariously liable for the negligent acts and/or omissions of their employees, servants, workmen, and/or agents who at all material times were acting or failing to

act in the course and scope of their employment, authority, and/or agency.

16. A reasonable search has been conducted for the identities of John Does #1-10.

17. ABC Corporations #1-10 (fictitious) are corporations or other business entities that owned, controlled, possessed, managed, leased, and/or was otherwise responsible for the Starbucks Store located at the Hickory Run Service Plaza, 256 Danner Road, Jim Thorpe, PA 18229 including but not limited to the Starbucks store at the location and the coffee making that occurred at that specific Starbucks store.

18. ABC Corporations #1-10 (fictitious) are vicariously liable for the negligent acts and/or omissions of its employees, servants, workmen, and/or agents who at all material times were acting or failing to act in the course and scope of their employment, authority, and/or agency.

19. A reasonable search has been conducted for the identities of ABC Corporations #1-10.

II. JURISDICTION AND VENUE

20. Jurisdiction and Venue are proper in the Court of Common Pleas in Philadelphia County, Commonwealth of Pennsylvania in that Defendants regularly conduct business in Philadelphia County, Commonwealth of Pennsylvania, may be properly served in Philadelphia County, Commonwealth of Pennsylvania.

III. CHRONOLOGY OF FACTS

21. On or about September 8, 2023, at approximately 4:40 pm, Plaintiff and his brother, Brandon Essex, stopped at the Hickory Run Service Plaza in Jim Thorpe, PA.

22. At all material times, Defendants owned, controlled, possessed, managed or was otherwise responsible for the Starbucks store located in the Hickory Run Service Plaza.

23. Plaintiff Tyler Essex, waited in the car while his brother, Brandon went in and purchased coffee at the Starbucks location inside.

24. Plaintiff was a business invitee on Defendants' property at the time of the incident and thus, Defendants owed him a duty to take all reasonable measures and precautions to discover, warn, and remove all dangers they knew or should have known about.

25. Brandon Essex entered the Hickory Run Service Plaza and went to Starbucks where he ordered Tyler Essex a coffee with two creams and two sugars.

26. The Starbucks employees put extremely hot black coffee filled to the absolute rim in one coffee cup and provided Brandon Essex with another coffee cup with cream in it and two sugar packets, rather than placing the milk and sugar in the coffee as ordered.

27. Brandon Essex brought the coffee in the car to Plaintiff, Tyler Essex and handed it to him and Plaintiff intended to add the cream and sugar to the black coffee.

28. However, due to the overfilling of the cup of extremely hot black coffee, the coffee was filled to the rim which made the rim flimsy and the lid not stable on the coffee cup.

29. As a result of overfilling with extremely hot coffee, the lid popped off and the coffee spilled on Plaintiff's lower stomach, pelvis, penis, testicles, and legs causing injuries described more fully below.

30. As a direct and proximate result of the carelessness and negligence of Defendants, as aforesaid, Plaintiff, Tyler Essex, sustained serious and permanent injuries that caused a serious impairment of body function including without limitation, injuries to his muscles, tendons, ligaments, nerves, skin, legs, genitals, 2nd degree burns, 1st degree burns, scarring, hypersensitivity, anxiety, mental anguish, and aggravation of pre-existing conditions if any, some or all of which injuries may be permanent; Plaintiff also makes claims for injuries and losses of which he has no present knowledge.

31. As a further result of this accident, Plaintiff has been or will be obliged to receive and undergo medical attention and care and to expend various sums of money and/or to incur various expenses for the injuries he has suffered and he may be obliged to continue to expend such sums or incur such expenditures for an indefinite time in the future.

32. As a further result of this accident, Plaintiff has or may suffer a severe loss of his earnings and of his earning capacity and power.

33. As a direct and proximate result of this accident, Plaintiff has or may hereafter incur financial expenses or losses which do or may exceed amounts he may otherwise be entitled to receive.

34. As a further result of this accident, and by reason of the injuries as aforesaid, Plaintiff has suffered and, in the future, may continue to suffer great pain and agony, mental anguish and humiliation and has been, and may in the future, be hindered from attending to his daily duties, function and occupation, to his great detriment and loss.

COUNT I:
NEGLIGENCE

**TYLER ESSEX V. STARBUCKS COFFEE COMPANY, STARBUCKS CORPORATION,
PETROGAS GROUP US, INC., APPLGREEN USA WELCOME CENTRES, LLC, JOHN
DOE #1-10 (FICTITIOUS), AND ABC CORPORATION #1-10 (FICTITIOUS)**

29. Plaintiff hereby incorporates all preceding paragraphs if stated fully at length herein.

30. At all material times, Defendants, Starbucks Coffee Company and Starbucks Corporation, Petrogas Group Us, Inc., Applegreen USA Welcome Centres, LLC, John Does #1-10, and ABC Corporations #1-10 were responsible for serving the coffee at a safe temperature with safe cups, lids, and carrying trays.

31. At all material times, Defendants were responsible for serving coffee at a safe temperature.

32. As of September 8, 2023, the coffee at the subject Starbucks was not being served at a safe temperature.

33. As of September 8, 2023, the coffee at the subject Starbucks was being served at an excessively hot temperature that presented the risk of serious injury.

34. As of September 8, 2023, the Defendants failed to properly hire, train, and supervise

employees to ensure they were not making the coffee at excessively hot temperatures.

35. As of September 8, 2023, the Defendants failed to warn customers that they were making the coffee at an extremely hot temperature.

36. As of September 8, 2023, Starbucks employees were not properly trained regarding not overfilling coffee cups.

37. Prior to September 8, 2023, Defendants were serving the coffee with defective cups, defective lids, and defective carrying trays that presented a high risk of coffee spills.

38. Coffee that is served at an extremely hot temperature can cause people to suffer severe burns and other injuries.

39. Defendants knew or had reason to know that by brewing the coffee at excessively high temperature, their business invitees could suffer serious injuries.

40. Despite knowing the risk presented to business invitees, Defendants intentionally continued brewing their coffee at an extremely high temperature, that constitutes recklessness.

41. Punitive damages are necessary to punish Defendants from risking the health and safety of their customers and to make sure that they do not act in this manner in the future.

42. As a direct and proximate result of Defendants' carelessness and negligence, Plaintiff was caused to suffer severe injuries.

43. Defendants' negligence consisted of but is not limited to the following:

- a. Serving the coffee at an unreasonably hot temperature;
- b. Heating the coffee excessively before serving it;
- c. Failing to warn customers that the coffee was being served at an extremely hot temperature;
- d. Heating coffee beyond what is accepted in industry standards;
- e. Using defective coffee cups that presented high risk of coffee spills;
- f. Using defective coffee lids that presented high risk of coffee spills;

- g. Overfilling coffee cups, so as to make the lid unstable;
- h. Failing to follow regulatory standards for brewing coffee at a safe temperature;
- i. Negligent hiring of employees, contractors, and agents;
- j. Negligent supervision of employees, contractors and agents;
- k. Negligent training of employees, contractors and agents;
- l. Failing to properly treat the dangerous condition;
- m. Failing to remove the dangerous condition;
- n. Failing to warn of the dangerous condition; and
- o. Failing to exercise caution and care for the rights and safety of Plaintiff and others.

WHEREFORE, Plaintiff, Tyler Essex, hereby request this Honorable Court to enter judgment in his favor and against Defendants, Starbucks Coffee Company, Starbucks Corporation, Petrogas Group Us, Inc., Applegreen USA Welcome Centres, LLC John Doe #1-10 (fictitious), and ABC Corporation #1-10 (fictitious) individually, jointly, severally, and vicariously in a sum greater than \$50,000.00 plus interest, delay damages, punitive damages, and costs of suit.

Respectfully Submitted,

FINE AND STAUD, LLC

Theodore C. Levy
BY: _____
THEODORE C. LEVY, ESQUIRE
COLLEEN J. BORUM, ESQUIRE
Attorneys for Plaintiff

DATE: 11/7/23

VERIFICATION

I, **Tyler Essex**, hereby state that I am the **PLAINTIFF** in this matter; that the averments contained in the foregoing **Amended Complaint**

are true and correct to the best of my knowledge, information and belief, and further that this statement is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification.

Tyler A Essex

Tyler A Essex (Nov 7, 2023 13:08 EST)

DATE: 11/7/23

FINE AND STAUD, LLC

BY: THEODORE C. LEVY, ESQUIRE

Attorney I.D.: 311794

BY: COLLEEN J. BORUM, ESQUIRE

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PETROGAS GROUP US, INC.

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APPLEGREEN USA WELCOME

CENTRES, LLC

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JOHN DOE #1-10 (FICTITIOUS)

&

ABC CORPORATION #1-10 (FICTITIOUS)

: PHILADELPHIA COUNTY
: COURT OF COMMON PLEAS

:
: OCTOBER TERM 2023

:
: NO. 1045

CERTIFICATE OF SERVICE

I do hereby certify that service of a true and correct copy of Plaintiff's Amended Complaint has been electronically filed enabling counsel of record to receive a copy. I further certify that a signed original is on file in my office, a copy of which is available for review.

Bradley D. Remick, Esquire
Marshall Dennehey, P.C.
2000 Market Street, 23rd Floor
Philadelphia, PA 19103

Respectfully Submitted,
FINE AND STAUD, LLC

BY: Theodore C. Levy
THEODORE C. LEVY, ESQUIRE
COLLEEN J. BORUM, ESQUIRE
Attorneys for Plaintiff

DATE: 11/7/23